

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

109

**CM-6335-C-2017 in/and
RSA-2578-2017 (O&M)
Date of Decision : 15.02.2018**

Karnail Ram ...Appellant

VS

Karnail Ram and others ...Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. H.K. Aurora, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

CM-6335-C-2017

For the reasons recorded, the application is allowed. Delay of 10 days in filing the appeal is condoned.

RSA-2578-2017 (O&M)

This appeal has been filed against the concurrent judgments of the courts below decreeing a suit filed by the respondents whereby they had sought permanent injunction restraining the appellant from encroaching upon the common rasta/gali and from blocking the passage of the houses of the residents residing in the said street and from raising further construction in the disputed area.

The case of the appellant on the other hand was that he had purchased the property in dispute from Mohinder Singh son of Naranjan Singh and was in established possession thereof. Both the courts below noticed that the respondents had purchased the property from the father of

Mohinder Singh i.e. Naranjan Singh and in the sale deed executed in favour of the respondents there was a specific stipulation that the land in dispute was left as a passage. In the face of that admitted stipulation in the earlier sale deeds, both the courts below came to the conclusion that the son of Naranjan Singh could not claim that he was in exclusive possession of the land in dispute once his father had left it as passage and therefore recitals in the sale deeds made by him to the effect that he had handed over possession to the appellant were not established.

Counsel for the appellant has not been able to show me how this finding is wrong. Once Mohinder Singh had inherited the property in dispute from Naranjan Singh he obviously stepped into the shoes of his father and once his father had made a stipulation in the sale deeds that the property in dispute is a rasta, he can not now turn around and claim it to be in his exclusive possession.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

February 15, 2017
ashish

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No